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Customer Number

Patent
Case No.: 56147US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: **MALLO, RICHARD A.**

Application No.: **09/771054** Confirmation No.: **7236**

Filed: **January 26, 2001**

Title: **SILYLATED POLYURETHANE-UREA COMPOSITIONS FOR
USE IN COSMETIC APPLICATIONS**

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR § 1.8(a))

I hereby certify that this correspondence is being:

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transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at 571-273-8300.

October 11, 2006
Date

I. Hass
Signed by: Irina Hass

Dear Sir:

This is in response to the Office Action mailed September 13, 2006.

The standards for supporting a restriction requirement between related product or process inventions is set forth in MPEP § 806.05(j), which requires a showing of two-way distinctiveness with other reasoning. An example showing if the inventions are mutually exclusive, are nonobvious variants and the invention as claimed are not capable of being used together or have materially different, e.g. mode of operation or effect. It is submitted that this has not been shown in the present restriction requirement.

If there is this determination coupled with an explanation of the undue burden the method for making an election of species restriction is set forth in 809.2 where the examiner is required to clearly identify each disclosed species. However the instant restriction merely indicate that each specific possible composition is a potential independent and distinct species.

Therefore applicant elect, with traverse, the species identified in the election of May 6, 2002 in the parent case further limited to the reaction product of polycaprolactone diol and IPDI, were the cosmetic form is nail care, from claim 41, and the excipient are pigments from claim 40.

All pending claims correspond to this species except claims 37 and 42.

It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

October 11, 2002
Date

By: _____

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